

Introduced by Senator Speier

February 7, 2005

An act to add Section 4051.1 to the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 152, as introduced, Speier. Pseudoephedrine.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacies and pharmacists by the California State Board of Pharmacy. That law authorizes a pharmacist to furnish and dispense prescription drugs. A knowing violation of the Pharmacy Law is a misdemeanor.

This bill would prohibit, subject to specified exceptions, the furnishing of a product containing pseudoephedrine by other than a pharmacist or pharmacy technician in a pharmacy. The bill would limit the amount of the product that a person could acquire in a 30day period and would impose requirements on acquisition.

Because the bill would specify additional requirements under the Pharmacy Law, the violation of which is a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 4051.1 is added to the Business and Professions Code, to read:

4051.1. (a) A product containing any amount of pseudoephedrine or the salts, isomers, or salts of isomers of pseudoephedrine shall be furnished only by a pharmacist or pharmacy technician in a pharmacy.

(b) Notwithstanding Section 11100 of the Health and Safety Code, no person shall purchase, receive, or otherwise acquire more than nine grams of the product described in subdivision (a) within any 30-day period. Before purchasing, receiving, or otherwise acquiring a product described in subdivision (a), a person shall produce a valid California driver's license or other valid identification containing a photograph of the person and showing his or her date of birth. The person shall sign a written document, as specified by the Attorney General, indicating the date of the purchase, receipt, or acquisition and the amount of the product involved in the transaction.

(c) The pharmacist shall store the product described in subdivision (a) in a locked area within the view of the pharmacist. The pharmacist and all persons with access to the locked storage area shall prevent the theft or diversion of the product.

(d) (1) This section shall not apply to a compound, mixture, or preparation of pseudoephedrine that is in liquid, liquid capsule, or gel capsule form if pseudoephedrine is not the only active ingredient. "Gel capsule" means any soft gelatin, liquid-filled capsule that contains a liquid suspension in a matrix of glycerine, polyethylene glycol, propylene glycol, and other liquid substances. "Active ingredient" includes the matrix found in liquid capsules. Regardless of the product manufacturer's labeling, a gelatin-covered solid is a gel capsule for purposes of this subdivision.

(2) The exception in paragraph (1) shall not apply to a liquid preparation that is discovered in an illegal laboratory, that is associated with an illegal laboratory, or that is any form other than one manufactured and sold by a manufacturer for medicinal purposes.

1 (e) This section does not apply to a substance furnished
2 pursuant to a valid prescription.

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the
8 penalty for a crime or infraction, within the meaning of Section
9 17556 of the Government Code, or changes the definition of a
10 crime within the meaning of Section 6 of Article XIII B of the
11 California Constitution.